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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 6005 of 2007
Date of decision: 22.11.2007

Gurcharan Singh **...Petitioner**

Versus

Jaspal Gulati and another **...Respondents**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Brijender Kaushik, Advocate for the petitioner.

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RAJESH BINDAL, J.

Prayer made in the petition is for issuance of a direction to the Tribunal to release the entire amount of compensation payable to the petitioner on account of death of his brother.

The total amount of compensation including interest Rs. 2,82,650/- was initially ordered to be kept in F.D.R. with the bank. However, on application of the petitioner/claimant, learned Tribunal vide impugned order dated August 4, 2007 on the plea raised by the petitioner for requirement of the amount for repair of house and for repaying the loan allegedly taken by the deceased from his relatives for purchase of tractor, direction was given for release of Rs. 82,000/-. Prayer made before this Court is for issuance of a direction to the Tribunal for release of entire amount. Petition filed before this Court as well as application filed before the Tribunal are totally lacking particulars as to when and how much of loan was raised for purchase of tractor and from which relative. The only effort is to get entire money kept in the FDR encashed.

Hon'ble Supreme Court in **General Manager, Kerala State Road Transport Corporation Vs. Susamma Thomas and others** **1994 Accidents Claims Journal 1** laid down guidelines regarding disbursement of amount of compensation to the parties, which are to the following effect:-

"In a case of compensation for death it is appropriate that the

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Tribunals do keep in mind the principles enunciated by this court in Union Carbide Corpn. V. Union of India, 1991 (4) SCC 584, in the matter of appropriate investments to safeguard the feed from being frittered away by the beneficiaries owing to ignorance, illiteracy and susceptible to exploitation. In that case approving the judgment of the Gujarat High Court in Muljibhai Ajarambhai Harijan Vs. United India Insurance Co. Ltd., 1983 ACJ 57 (Gujarat), this court offered the following guidelines:-

"(i) The Claims Tribunal should, in the case of minors, invariably order the amount of compensation awarded to the minor invested in long term fixed deposits at least till the date of the minor attaining majority. The expenses incurred by the guardian or next friend may, however, be allowed to be withdrawn;

(ii) In the case of illiterate claimants also the Claims Tribunal should follow the procedure set out in (i) above, but if lump sum payment is required for effecting purchases of any movable or immovable property, such as, agricultural implements, rickshaw etc., to earn a living, the Tribunal may consider such a request after making sure that the amount is actually spent for the purpose and the demand is not a rogue to withdraw money;

(iii) In the case of semi-literate persons the Tribunal should ordinarily resort to the procedure set out in (i) above unless it is satisfied, for reasons to be stated in writing, that the whole or part of the amount is required for expanding any existing business or for purchasing some property as mentioned in (ii) above for earning his livelihood, in which case the Tribunal will ensure that the

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amount is invested for the purpose for which it is demanded and paid;

(iv) In the case of literate persons also the Tribunal may resort to the procedure indicated in (i) above, subject to the relaxation set out in (ii) and (iii) above, if having regard to the age, fiscal background and strata of society to which the claimant belongs and such other considerations, the Tribunal in the larger interest of the claimant and with a view to ensuring the safety of the compensation awarded to him thinks it necessary to so order;

(v) In the case of widows the Claims Tribunal should invariably follow the procedure set out in (i) above;

(vi) In personal injury cases if further treatment is necessary, the Claims Tribunal on being satisfied about the same, which shall be recorded in writing, permit withdrawal of such amount as is necessary for incurring the expenses for such treatment;

(vii) In all cases in which investment in long term fixed deposits is made it should be on condition that the bank will not permit any loan or advance on the fixed deposit and interest on the amount invested in paid monthly directly to the claimant or his guardian, as the case may be;

(viii) In all cases Tribunal should grant to the claimants liberty to apply for withdrawal in case of an emergency. To meet with such a contingency, if the amount awarded is substantial, the Claims Tribunal may invest it in more than one fixed deposit so that if need be one such F.D.R can be liquidated."

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The petitioner in the present case is an illiterate person. If the prayer made by the petitioner is examined in view of the guidelines laid down by Hon'ble the Supreme Court, in my opinion, much indulgence had already been granted by the Tribunal in releasing substantial amount of Rs. 82,000/- to the petitioner. No further relief can be granted to the petitioner.

Accordingly, the revision petition is dismissed.

November 22, 2007 **(Rajesh Bindal)**
Pka **Judge**